



**DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
GOVERNOR'S ADVISORY COUNCIL
TO THE DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES**

October 21, 2014

The Governor's Advisory Council to the Division of Developmental Disabilities Services met on October 21, 2014, at the Hilton Garden Inn, Dover. The following represents the meeting portion.

COUNCIL MEMBERS PRESENT: Terri Hancharick, Chair
Thomas Rust
Angie Sipple
Timothy F. Brooks, Ed.D

COUNCIL MEMBERS ABSENT: Jamie Doane

STAFF MEMBERS PRESENT: Jane Gallivan
Marie Nonnenmacher
Pat Weygandt
Vanessa Deloach
Katie Howe
Vicky Gordy - minutes

CALL TO ORDER: The meeting was called to order at 9:45 a.m.

NEXT MEETING: November 18, 2014 - 1 p.m. – 3 p.m.
1056 Woodbrook Conference Room, Dover

APPROVAL OF MINUTES: The minutes from the September 16, 2014 were approved.

Additions to the Agenda

No additions presented.

Housing Vacancies

The Governor's Advisory Council Vacancies and Development chart was distributed. Currently there are 37 vacancies statewide (4.5%); 25 in group/neighborhood homes (7 are ARC homes) and 12 in CLA's. Since July 1, 2014, 14 individuals are placed, 12 have chosen placement site and are in process of being placed within the next five weeks, 54 are shopping for placement in various stages of process, and 13 individuals are placed currently at emergency temporary living arrangements (ETLA). There

was an influx in ETLA placements last week, which may or may not become the individual's permanent placement.

Vacant Position Reports

The Vacant Position Reports were distributed to Council. The Positions Not Approved to Fill or Not to be Filled Report reflects the sum of DDDS positions. The Active Treatment Facilitator positions on the second page of report, identified as frozen will most likely never be filled although continues to be counted. The Recruitment in Process Report is positions that are approved to hire in various stages of the hiring process. Most of the positions approved are for Stockley Center. The Certified Nursing Assistants have blanket approval to fill due to being direct support positions.

Key positions include "Director of Adult Population" and positions at the top of report as they are utilized for the DDDS PM46 Unit. Currently, any position vacated is frozen until DDDS completes the process to request recruitment of the position. DDDS reviews all vacant positions and prioritizes for critical need. Therefore, when an attendant chauffeur position becomes vacant it becomes critical to place as top priority due to directly affecting the people DDDS serves. Justification is required to fill any vacant position, which is relatively easy due to managing a significant larger population with fewer staff, especially when new eligible individuals require an array of DDDS staff to provide supports. The current hiring process was developed by the Office of Management and Budget. DDDS believes hiring could improve if a funding maximum is given by OMB for personnel cost for DDDS to manage. The current hiring process becomes very challenging and burdensome. Hiring seasonal/casual employees is also challenging and more scrutinized due to the Health Care Act criteria. Concerns have been raised in other divisions/departments regarding the hiring process.

DDDS has been working to create efficiencies in Fiscal Office processes although there is a big workload issue.

DDDS has been working to update the titles of some positions (requires much work) as titles were created when institutional settings were the norm. As institutions downsize, positions are moved toward community settings. Therefore, titles as "Sheltered Work Production Assistant" and "DD Residential Unit Manager" require updating, as employees in these roles are not performing work associated with title. DDDS was able to identify some positions to support the Family Support Waiver, identified by "Repurpose for FS Waiver" in comment section of report, although permission to fill positions has not been granted to date.

DDDS has shifted positions as often as possible. Recently, two case manager positions were shifted to New Castle County (due to the significant growth) in an effort to provide resources for lower case load ratios.

DDDS is attempting to swap Stockley Center's Active Treatment Facilitator positions. Adele Wemlinger, Stockley Center Director does amazing work utilizing positions to full capacity. To date Stockley Center exchanged 15 Active Treatment Facilitator positions for 15 Certified Nursing Assistant positions from DSAMH due to staffing needs.

Family Support Waiver Update

DDDS is mandated to report for the Family Support Waiver (FSW). DDDS hopes to work with a volunteer from The ARC to act as a sounding board. Time has been scheduled to revise the FSW due to CMS allowances for new waiver applications. Once completed, DDDS will solicit a small focus group

to review to include family members, a provider, an advocate, and volunteers from the Governor's Advisory Council. The focus group will meet twice to review the service package of the FSW. The idea of recruiting Joint Finance Committee (JFC) members, associated with IDD was discussed and thought to be a good idea. DDDS has not had the opportunity to discuss with JFC members.

DDDS is attempting to determine when to seek public comment for application as if placed before the JFC without public comment it may be viewed negatively, although if public comment is sought JFC may require changes in the application, which will require seeking public comment again. CMS requires public comment, which DDDS encourages; the question is when public comment should be sought. DDDS is considering presenting the FSW to a small family group first then present to the JFC, and lastly seek public comment. DDDS will seek guidance from the JFC in an effort to move quickly with FSW development.

CMS ruled that any waiver services applied for must be compliant with "community rule" and that people receiving services (even if not funded by Medicaid) is living in a community rule compliant setting. Therefore, day habilitation and prevocational services will remain in the state plan at this time. The DDDS Director challenged CMS regarding this ruling due to the drastic limitations placed on states to add services for families.

Per CMS, via the recently developed Pathways Program, if an individual is receiving home and community based services, before supported employment services are obtained DDDS must verify that living arrangements are integrated, even if not funded by CMS. Defining community living will become challenging as needs are based on a personal level to include measuring intangibles such as personal rhythm of life in group homes (i.e., choice of when you awake, choice to attend outings, choice of mealtime, etc.).

If individual's choose to remain in a sheltered workshop after Delaware moves to the "community rule" federal funding will be unable to support unless compliant with "community rule" (little guidance has been available to date). The CMS website provides some guidance regarding "community rule" for residential services. CMS is working toward providing the same for day services.

DDDS is considering respite services, employment services, and dental services with an estimated \$1500 per year allocation per individual to be included in the FSW. Dental services costs were asked to be included in the DHSS budget request. Once the FSW is approved by CMS, services may be added at any time.

DDDS will seek public comments once community rule compliant plan is developed. DDDS must review all policy and standards for any interference with community rule compliance. DDDS must have plan submitted to CMS by March 17, 2015 and has four years to become compliant with plan. This is an exciting time for families as the community opens for IDD individuals.

Day Services without Walls (community rule)

Katie Howe of the DDDS Day Services Transition Unit presented the Council with the draft service definition of "Community Participation", the service guidelines, and billing guidance that was created by the Day Services Provider Committee. This service is being provided by some day programs and is viewed as a companion service for people who are working in order to have a full day. The service is individualized with a maximum staffing ratio of 1:2. Agencies that currently provide this type of service include learning banking skills, navigating the community, specialized volunteer internships for short

time, developing natural supports (i.e. grocery store employee providing assistance if necessary), etc. The service is community based and is an option (made available by provider agencies) to individuals who participate in day services programs. Some agencies provide transportation and others utilize DART or other method of public transportation. Currently similar services are offered by five statewide provider agencies (CIS, Powell, Heartwood, Thrive, and St. Johns) although reimbursement rates are supported under the definition of day habilitation. The Council discussed that this type of service would benefit individuals that would not benefit from supported employment services. Concern rose surrounding how evaluating this service type may prove difficult due to centering on documentation. The expected outcome of service must be address to include goal oriented definitions within the planning process, which the DDDS team and family must focus on to determine if progress to obtain goal is ongoing, via documentation. DDDS has been working with George Tilson to learn how to write and revise smarter goals. The developmental disabled system presents challenges for goal attainment and measuring goal attainment as statements and expected outcome must be measurable. One measurable example outcome discussed was how much an individual is out with a natural support (nonpaid person). No specific behavior supports are in this service with the exception of staff ratio maximum of 1:2 with many individuals supported via 1:1 staffing ratio. Low staffing ratio reflects that individuals are choosing to participate in activity. This service presents the opportunity of individualized supports in the community. The long-term outcome of all services is for people to have and acquire natural supports to be connected so services may fade.

The draft Day Services Referral Protocol and draft Referral Service Recipients for Employment and/or Day Services procedure with an effective date of December 1st was distributed to Council. Changes in this protocol include person tours agency before applying for service, case manager or family support specialist completes application, and agency must reach enrollment decision within a 10 days. Agencies may choose not to enroll person due to capacity issues, if agency does not provide specific service, or for health and safety reasons although the agency must provide reason for denying service in letter to applicant. If denied services, person and/or family may request a fair hearing. Due to DDDS authorizing agencies to provide services, DDDS must monitoring agency selection process to ensure impartiality. A common complaint regarding new graduates from school transition to receive DDDS services is the time length. During the past end of school year all services were authorized no later than July 1st, therefore there was no gap in transition. Day Services is serving all requests for service and currently there is no waiting list to receive day services. Funding was shifted from 9 months to 10 months, which alleviated waiting until September in order to be authorized for services. Eligibility category codes were not fully understood by fiscal office, which is now rectified. The Day and Transition Unit service delivery has improved due to knowledge obtained from Jane Gallivan, Marie Nonnenmacher, and Nikki Johnson in the fiscal office.

Ebola Screening Information

Marie Nonnenmacher sent an e-mail to all DDDS providers regarding the Ebola virus to include a link to the Health Alert provided by the Division of Public Health. The Health Alert provides a hyperlink to a “screening tool” that may be used to screen out potentially infected staff.

The Council discussed the high rate of infections contracted while admitted in a hospital setting. DDDS has not established reporting requirements of infections received by supported individuals during hospital stay, although will consider. This data can be easily drawn together via change in health status reports.

DDDS reported that recent influxes of falls are occurring. Therefore, the Office of Quality Improvement will be sending information regarding the increase of falls with training information to provider agencies as soon as possible.

Office of Applicant Services Eligibility Report FY15

The DDDS Office of Applicant Services Eligibility Report FY2015 was distributed to Council. This report represents July through September data. The “total determined eligible” total may not be counted in the “total number of applications received” as some eligible applications may have been received before July 1, 2014. “Inactive or Pending” applications are due to not receiving all necessary documents to determine eligibility. The majority of qualifying conditions are intellectual disabilities. The age distribution data reflects the highest bracket of 13-22 years of age, although the 12 years old and under category is high as well. The DDDS Day Services and Transition Unit is working by providing outreach at fairs, schools, attending IEP meetings at families request even if not supported by DDDS, suggesting applying for services to all, and by assisting with the application process.

DDDS has concerns regarding determining eligibility at the age of 12 when family is mainly looking for respite care services. If DDDS presumes that when school criteria are met the individual would automatically meet DDDS criteria for minimal services, the DDDS application process could begin at a more appropriate age of 13-14. This would also limit concerns of individual not being eligible for DDDS services after support from school has ended. DDDS is evaluating possibilities of including this in the eligibility process to improve the ease of process for families.

It was brought to the Council’s attention that approximately 16% of applicants are deemed ineligible, due to not meeting criteria. Many applications from people in special education apply that do not meet criteria. Generally, criteria are not met due to individual having a low intellectual score (higher than 70) with overlays of mental health illness, which DDDS does not serve. Some individuals appeal and if new evidence reveals that criteria are met, eligibility is approved.

Although IDD is pronounced in males nationally (especially in Autism), the number of males receiving services in Delaware is higher. Two thirds of the DDDS population is located in New Castle County, which is usual.

The Council discussed differences with SSI and SSDI although experts in these areas were not available during meeting. The Day Services & Transition Unit reported some information on social security is available through their office.

Supported Decision Making Model

DDDS began focusing on this new client advocacy program with the Office of Public Guardian in June of this year that included creating a pilot program for individuals who have no family support or legal representation that lack capacity to make consent decisions, determined by the attending physician. DDDS was challenged to provide the best course of action to try to utilize a physician in the Department for this purpose by helping individuals advocate for themselves instead of making referrals to the Office of Public Guardian due to high caseloads. DDDS presents approximately 30 individuals that require representation for consent decisions. Currently, DDDS is following Title 16, Chapter 25, Section 205, Health Care Decision that references surrogates. Recently a group met on October 3rd to discuss Model Legislation, which is relating to the recognition of a supported health care decision-making agreement for adults with disabilities (council received copies). The purpose of this Act is to create an alternative

to guardianship, maximize autonomy, and improve health care outcomes for adults with disabilities by permitting adults with disabilities to name supporters to help them understand health-related information and options so they can make their own health care decisions. This approach gives individuals the maximum opportunity to keep their rights with the opportunity for supported decision making when needed. Ari Ne'eman of the Autistic Self Advocacy Network in collaboration with Quality Trust developed this model legislation proposal. Senator Nicole Poore expressed her support and will present to House members, which may lead to legislation during the next session.

The current version of Medial Orders for Life-Sustaining Treatment (MOLST) becomes effective on November 3rd, which in essence allows emergency paramedics not to resuscitate as obligated.

Aaron Bishop, who spoke at the Self Advocacy Conference about approaching the 25th anniversary of the Americans with Disabilities Act (ADA) voiced that he believes the next big issue will surround the over utilization of guardianship.

PM46 Committee Updates & Quality Standards

The DHSS Secretary's Office has been receiving complaints from families of DDDS individuals regarding the Policy Memorandum 46 (PM 46) process. Complaints typically surround families not being informed of any information. A group assigned to review and update the overall PM 46 process met with families to hear concerns. DDDS Director and staff also met with a number of families who spoke of their experiences with the PM 46 process. Families revealed concerns surrounded process and of happenings in homes. The investigation process must provide confidentiality although some information should be shared with families. As a result, DDDS is working to develop a presentation for DDDS case managers surrounding PM 46 information that should be shared with families.

The DDDS Quality Working Group has met twice. DDDS believes that an incentive program such as the STARS program for child-care services would not be suitable for DDDS due to the vast diversity of individuals served. DDDS has quality standards in place although is lacking in publishing outcomes.

Adjournment

The meeting portion of retreated adjourned at 12:15 p.m.